

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ORDER

WOLF, D.J.

June 5, 2009

After an evidentiary hearing on June 5, 2009, for the reasons described in detail in court, it is hereby ORDERED that:

1. The government's request to dismiss Juan Ocasio from all counts of the indictment with prejudice (Docket No. 52) is, pursuant to Federal Rule of Criminal Procedure 48(a), ALLOWED. The charges against Ocasio are, therefore, hereby dismissed with prejudice. See Rinaldi v. United States, 434 U.S. 22, 30 n.15 (1977).

2. The government shall request that the transcript of the June 5, 2009 hearing be prepared on an expedited basis.

3. The Acting United States Attorney shall, by June 19, 2009:

a) Read the previously prepared transcript of the May 27, 2009 hearing and the transcript of the June 5, 2009 hearing, both of which include discussion of errors by the government in discharging its duties to discover and disclose material exculpatory information, as required by decisions such as Kyles v. Whitley, 514 U.S. 419 (1995), and the Local Rules of the United

States District Court for the District of Massachusetts, including L.R. 116.2(A)(3) and (B)(1)(b), L.R. 116.8, and L.R. 116.9. See also United States Attorneys Manual §9-5.001(B)(2).

b) Provide copies of the transcripts of the May 27, 2009 and June 5, 2009 hearings to the Inspector General of the Drug Enforcement Administration ("DEA") and to the Special Agent in Charge of the DEA's Boston office for whatever action, if any, they deem appropriate with regard to education, supervision, and/or discipline.¹

c) Certify to the court that the requirements of subparagraphs 3(a) and (b) hereinabove have been met.

/s/ MARK L. WOLF
UNITED STATES DISTRICT JUDGE

¹The court will provide copies of the transcripts to District Judge Douglas P. Woodlock for possible use in the educational program concerning discovery that he is planning. See United States v. Jones, 2009 WL 1396386, at *20 (D. Mass. May 18, 2009).